

ROANNE L. MANN
UNITED STATES MAGISTRATE JUDGE

DOCKET NO: 18-cv-05663

CASE: Coleman v. Grand

DATE: April 12, 2019
START: 3:30 pm
END: 4:15 pm

INITIAL CONFERENCE
 DISCOVERY CONFERENCE
 SETTLEMENT CONFERENCE
 MOTION HEARING

OTHER/ORDER TO SHOW CAUSE
 FINAL/PRETRIAL CONFERENCE
 TELEPHONE CONFERENCE
 INFANT COMPROMISE HEARING

PLAINTIFF

ATTORNEY

	<u>Joyce Cooper</u>

DEFENDANT

ATTORNEY

	<u>Kase McKnight</u>
	<u>A. Mackenna White</u>

DISCOVERY TO BE COMPLETED BY _____
 NEXT _____ CONFERENCE SCHEDULED FOR _____
 JOINT PRE-TRIAL ORDER TO BE FILED VIA ECF BY _____
 PL. TO SERVE DEF. BY: _____ DEF. TO SERVE PL. BY: _____

RULINGS: PLEASE TYPE THE FOLLOWING ON DOCKET SHEET

For the reasons stated on the record, the Court concludes that (1) defendant failed to establish that this is the "rarely" case in which a party (plaintiff) should be excluded from the deposition of the defendant (*cf. Galella v. Onassis*, 487 F.2d 986, 997 (2d Cir. 1973)); and (2) plaintiff, who wishes to discover evidence of defendant's sexual history to establish her "sexual predisposition," has not sustained his burden of establishing that that discovery would be relevant under the facts and theories of this case and that the probative

value of such evidence substantially outweighs the danger of harm and unfair prejudice to the defendant, as required under Fed. R. Evid. 412 and the Advisory Committee Notes thereto (1994 Amendments). Therefore, while defendant may be questioned at her deposition about her sexual relationships with plaintiff, she may not be questioned about unrelated other sexual relationships. Defendant's motion for a protective order (DE #30) is thus granted in part and denied in part.

In order to ensure compliance with the aforesaid restrictions, and to minimize defendant's claimed discomfort resulting from allowing plaintiff to attend the deposition next week, the deposition will take place in a courtroom in the Courthouse and will be presided over by retired Magistrate Judge Pohorelsky.

The Court denies defendant's motion to strike plaintiff's submissions (DE #39) but rules that the exhibits attached to plaintiff's declaration will remain under seal, for the reasons articulated by the Court.